IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 247 OF 2006

Shri Satish Suresh Kakade ...Applicant.

V/s

The State of Maharashtra ...Respondent.

Ms. Pranali Kakade i/b Subhas Hulyalkar for the applicant.

Mr. R.Y. Mirza, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 3rd February, 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant is arrested in connection with C.R. No.356 of 2005 which is registered at Hadapsar Police Station for offence punishable under section 302 read with section 34 of the Indian Penal Code.

3. It is alleged that the applicant was carrying hammer and his two other brothers were also armed with lethal weapons and three of them along with their mother assaulted the deceased. The post-mortem report indicates as many as 14 incised wounds. There are two other wounds found on the skull of the deceased which

could have been caused by hammer as submitted by the learned APP for the State.

4. The learned Counsel for the applicant has submitted that the applicant has no other criminal antecedents. His mother and other accused have been released on bail. It is submitted that the eye witnesses do not attribute any role so far as the present applicant is concerned in the assault that had taken place. She further submitted that from the post-mortem notes, the column No.17 indicates that all the injuries are incised wounds and, therefore, could not have been caused by hammer. It is further submitted that in the earlier incident which had taken place, the deceased had assaulted the applicant and his mother. It is submitted that under the circumstances, the applicant is entitled to be released on bail.

5. The learned APP appearing on behalf of the State submitted that other co-accused were released because one of them was juvenile and the other i.e. the mother of the applicant was a woman. She has submitted that there are seven eye witnesses to the said incident and certain injuries in the post-mortem notes could have been caused by the hammer.

6. Considering these facts, in my view, this is not a fit case for grant of bail. The charge-sheet has been filed. Hearing of the trial is expedited. If the trial is not over within a period of one year, the applicant is at liberty to apply again.

V.M. KANADE, J.